

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TANIA SIMONS,

Plaintiff,

v.

FRONTIER FINANCIAL GROUP, INC.,

Defendant.

Case No. 10-5150RJB

ORDER ON PLAINTIFF'S
MOTION FOR DEFAULT
JUDGMENT AND MOTION FOR
ATTORNEY'S FEES

This matter comes before the Court on Plaintiff's above captioned motions (Dkt. 10 & 11). The Court has considered the motions and the relevant documents herein.

On March 5, 2010, the Plaintiff filed a complaint alleging the Defendant violated the Fair Debt Collection Practices Act ("FDCPA") by, among other things, contacting a third party, informing that party of Plaintiff's debt, failing to advise Plaintiff that Defendant was a debt collector, making misrepresentations to Plaintiff, and threatening action that could not legally be taken or that was not intended to be taken. Dkt. 1.

The Defendant failed to appear and Plaintiff moved for entry of default by the clerk on May 21, 2010. Dkt. 5. The Clerk of the Court entered default on May 25, 2010. Dkt. 6. The Plaintiff now moves for entry of default judgment (Dkt. 10) and attorneys fees (Dkt. 11).

The Plaintiff is requesting \$1,000.00 in statutory damages and \$25,000 in actual damages for a total of \$26,000.00 in damages. Dkt. 10. Plaintiff claims she suffered damages when

1 Defendant caused her to be anxious, distressed, lose sleep and appetite, and suffer other
2 emotional and mental symptoms due to Defendant's actions. Dkt. 10, p. 5-6, Dkt. 10-1, p. 3.

3 Given the facts of this case, \$1,000.00 in statutory damages is appropriate. It has been
4 alleged that the Defendant violated the FDCPA in several different ways, and repeatedly
5 contacted the Plaintiff, the Plaintiff's mother, and Plaintiff's ex-husband's father. The alleged
6 actions by the Defendant are flagrant violations of the FDCPA and damages should reflect the
7 seriousness of those violations. As such, the maximum amount allowable under the FDCPA
8 statute is appropriate.

9 However, Plaintiff's request for \$25,000.00 in actual damages is inappropriate. The
10 award of damages in the cases cited by the Plaintiff range from \$250.00 to \$50,000.00, with the
11 majority of cases awarding \$1,000.00. In this case, Plaintiff states that she suffered mental
12 distress, loss of sleep and appetite for approximately two weeks. Dkt. 10-1, p. 3. While the
13 Plaintiff states that she suffered mental distress, it only lasted two weeks and the symptoms are
14 not corroborated or quantified by third party testimony or expert testimony. The Court believes
15 that in this situation an award of \$4,000.00 for actual damages is reasonable.

16 For the foregoing reasons, the Plaintiff's motion for default judgment should be granted
17 as follows: \$1,000.00 for statutory damages and \$4,000.00 for actual damages, for a total of
18 \$5,000.00 in total damages.

19 The Plaintiff filed a separate motion for attorney's fees, requesting in \$4,000.00 in
20 reasonable fees and costs. Dkt. 11. The Court has reviewed the motion and the supporting
21 material, and finds the fees and costs to be reasonable and supported. Therefore, the Plaintiff's
22 motion for attorney's fees should be granted.

23 The Court does hereby find and **ORDER**:

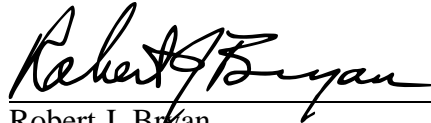
24 (1) Plaintiff's Motion for Default Judgment (Dkt. 10) is **GRANTED** and Plaintiff is
25 granted judgment for damages in the sum of \$5,000.00;

26 (2) Plaintiff's Motion for Attorneys' Fees and Costs (Dkt. 11) is **GRANTED** and
27 Plaintiff is granted judgment for \$4,000.00 for fees and costs;

1 (3) The total judgment for damages, fees and costs is in the amount of \$9,000.00 in favor
2 of Plaintiff and against Defendant; and

3 (4) The Clerk is directed to send copies of this Order all counsel of record and any party
4 appearing *pro se* at said party's last known address.

5 DATED this 25th day of August, 2010.

6
7 
8 Robert J. Bryan
United States District Judge